

the Development and Use of the Information Sharing Environment released by the President on November 22, 2006 (Presidential Guidelines) to protect privacy rights and civil liberties.

Section 531. Office of Intelligence and Analysis and Office of Infrastructure Protection

The Homeland Security Act of 2002 (6 U.S.C. 101) created an Under Secretary for Information Analysis, assisted by an Assistant Secretary for Information and Analysis and an Assistant Secretary for Infrastructure Protection, and specified the Under Secretary's primary responsibilities. These include: (1) receiving and analyzing law enforcement information, intelligence, and other lawfully obtained information in order to understand the nature and scope of the terrorist threat to the United States homeland; (2) integrating relevant information to produce and disseminate infrastructure vulnerabilities assessments; (3) analyzing that information to identify and prioritize the types of protective measures to be taken; (4) making recommendations for information sharing and developing a national plan that would outline recommendations to improve the security of key resources; (5) administering the Homeland Security Advisory System; (6) exercising primary responsibility for public threat advisory and providing specific warning information to State and local governments and the private sector, as well as advice about appropriate protective actions and countermeasures; (7) making recommendations for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to homeland security within the Federal government and between the Federal government and State and local governments.

Following the completion of the Department's Second Stage Review in July of 2005, the Secretary renamed the Office of Information Analysis the "Office of Intelligence and Analysis" and gave it responsibilities in addition to those outlined in the Homeland Security Act. In addition to its statutory duties, one of the major responsibilities for the new Office of Intelligence and Analysis is to serve as the Chief Intelligence Office of the Department—taking responsibility for leading the intelligence components of the Department.

Sections 741 and 743 of the House bill reflect these changes by statutorily reorganizing the Directorate for Information Analysis and Infrastructure Protection by doing away with the Directorate and the Under Secretary for Information Analysis and Infrastructure Protection position and officially establishing in its place a separate Office of Intelligence and Analysis, elevating the Assistant Secretary for Information and Analysis to an Under Secretary for Intelligence and Analysis as its head; and a separate Office of Infrastructure Protection, headed by the Assistant Secretary for Infrastructure Protection. Sections 741 and 743 of the House bill likewise divide the responsibilities of the former Under Secretary for Information Analysis and Infrastructure Protection outlined in Section 201(d) of the Homeland Security Act between the new Under Secretary for Intelligence and Analysis and new Assistant Secretary for Infrastructure Protection. Section 741 in the House bill also adds several new responsibilities for the Under Secretary for Intelligence and Analysis.

There is no comparable Senate provision.

The Conference substitute adopts the House provisions, with substantial modifications. While the Conference agrees with the Department's consolidation of the duties of the Office of Intelligence and Analysis, they

also believe that the powers of the Department's Chief Intelligence Officer can only be effectively wielded by an Under Secretary. Therefore, this section amends the Homeland Security Act of 2002 (6 U.S.C. 101) to restructure the Department to reflect the changes wrought by the Second Stage Review by elevating the Assistant Secretary for Information Analysis to Under Secretary for Intelligence and Analysis and by officially establishing an Office of Intelligence and Analysis and an Office of Infrastructure Protection.

The Conference substitute retains those authorities from Section 201(d) of the Homeland Security Act in the Secretary for delegation to the appropriate officials. Those authorities include a new authority in the Conference agreement, to be carried out most likely by the Under Secretary for Intelligence and Analysis: the provision of guidance to the heads of intelligence components on developing budgets, and the presentation of recommendations for a consolidated intelligence budget to the Secretary.

Finally, the Conference substitute establishes an additional Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.

TITLE VI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

Section 601. Availability to public of certain intelligence funding information

There is no comparable House provision.

Section 1201 of the Senate bill requires the President to disclose to the public the aggregate amount of funds requested for the National Intelligence Program for each fiscal year. It also would require Congress to disclose to the public the aggregate amount authorized to be appropriated and the aggregate amount appropriated for the National Intelligence Program. The 9/11 Commission recommended in 2004 that the aggregate amount of funding for national intelligence be declassified, and in 2004 the Senate-passed version of the Intelligence Reform and Terrorism Prevention Act included a similar provision.

The Conference substitute adopts the Senate provision with modifications. The Conference substitute requires the Director of National Intelligence to disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program, beginning with Fiscal Year 2007. Beginning with Fiscal Year 2009, it allows the President to waive or postpone this disclosure by submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee of the House of Representatives an unclassified statement that the disclosure would damage national security, and a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

Section 602. Public Interest Declassification Board

There is no comparable House provision.

Section 1203 of the Senate bill authorizes the Public Interest Declassification Board, upon receiving a Congressional request, to conduct a review and make recommendations regardless of whether the review is requested by the President. It further provides that any recommendations submitted by the Board to the President shall also be submitted to the Chairman and Ranking Minority Member of the requesting Committee and extends the authorization of the Board for four years until the end of 2012.

As described in its report on activities in the 109th Congress (S. Rep. No. 110-57, at p. 26), in September 2006, the Senate Select Committee on Intelligence released two reports on prewar intelligence regarding Iraq.

In the introduction to one, the Committee expressed disagreement with the Intelligence Community's decision to classify portions of the report. Members of the Committee wrote to the then recently constituted Public Interest Declassification Board to request that it review the material and make recommendations about its classification. The Board responded that it might not be able to do so without White House authorization. In December 2006, the Board wrote to Congress to request that the statute establishing the Board be clarified to enable it to begin, without White House approval, a declassification review requested by Congress.

The Conference substitute adopts the Senate provision with minor technical and conforming changes to the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) to substitute the "Director of National Intelligence" for the "Director of Central Intelligence."

Section 603. Sense of the Senate regarding a report on the 9/11 Commission recommendations with respect to intelligence reform and congressional intelligence oversight reform

There is no comparable House provision.

Section 1204 of the Senate bill makes findings related to the 9/11 Commission's recommendation on Congressional oversight of intelligence. It expresses the Sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate should undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and Congressional intelligence oversight reform, review and consider other suggestions, options, or recommendations for improving intelligence oversight, and not later than December 21, 2007, submit to the Senate a joint report or individual reports that include the recommendations of the Committees, if any, for carrying out such reforms.

The Conference substitute adopts the Senate provision.

Section 604. Availability of funds for the Public Interest Declassification Board

There is no comparable House provision.

Section 1205 of the Senate bill allows the National Archives and Records Administration to obligate monies to carry out the activities of the Public Interest Declassification Board from the Continuing Appropriations Resolution of 2007, as amended.

The Conference substitute adopts the Senate provision.

Section 605. Availability of the executive summary of the Report on Central Intelligence Agency Accountability Regarding the Terrorist Attacks of September 11, 2001

There is no comparable House provision.

Section 1206 of the Senate bill provides that not later than 30 days after the enactment of this Act, the CIA Director shall prepare and make available to the public a version of the Executive Summary of a report by the CIA Inspector General that is declassified to the maximum extent possible consistent with national security.

The underlying document is the Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry Into Intelligence Community Activities Before and After September 11, 2001.

The CIA Director is to submit to Congress a classified annex that explains why any redacted material in the Executive Summary was withheld from the public. The Senate Select Committee on Intelligence includes a similar provision in its Intelligence Authorization Act for Fiscal Year 2008. The Committee's efforts to obtain this measure of